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12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

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UNITED STATES OF AMERICA,)	No. 3-05-70991 EDL
Plaintiff,)	[PROPOSED] ORDER AND STIPULATION
v.)	WAIVING TIME UNDER RULE 5.1 AND
GONZALO MAYORGA,)	EXCLUDING TIME FROM JANUARY 6,
Defendant.)	2006 TO FEBRUARY 23, 2006 FROM THE
		SPEEDY TRIAL ACT CALCULATION
		(18 U.S.C. § 3161(h)(8)(A))

The parties appeared before the Court on January 6, 2006. With the agreement of the parties, and with the consent of the defendant, the Court enters this order (1) scheduling a new status hearing date of January 26, 2006 at 9:30 a.m., before the Honorable Joseph C. Spero; (2) scheduling a preliminary hearing/arraignment date of February 23, 2006 at 9:30 a.m., before the Honorable Maria-Elena James; (3) documenting the defendant's waiver of time limits under Federal Rule of Criminal Procedure 5.1; and (4) documenting the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), from January 6, 2006 to February 23, 2006. The parties agreed, and the Court found and held, as follows:

1. The defendant waived the time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny the

1 defense reasonable time necessary for effective preparation, taking into account the exercise of
2 due diligence, and would deny the defendant continuity of counsel.

3 2. Counsel for the defense believes that postponing the preliminary hearing is in his
4 client's best interest, and that it is not in his client's interest for the United States to indict the
5 case before the currently scheduled preliminary hearing/arraignment date. The parties expect to
6 discuss the possibility of a pre-indictment disposition of the case.

7 3. The defendant agreed to an exclusion of time under the Speedy Trial Act. Failure to
8 grant the requested continuance would unreasonably deny both government and defense counsel
9 reasonable time necessary for effective preparation, taking into account the exercise of due
10 diligence, and would deny the defendant and the government continuity of counsel.

11 4. Given these circumstances, the Court found that the ends of justice served by
12 excluding the period from January 6, 2006 to February 23, 2006, outweigh the best interest of the
13 public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

14 5. Accordingly, and with the consent of the defendant, the Court ordered that the period
15 from January 6, 2006 to February 23, 2006 be excluded from Speedy Trial Act calculations under
16 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

17 4. The Court scheduled a new status date of January 26, 2006, at 9:30 a.m., before the
18 Honorable Joseph C. Spero, and a new preliminary hearing/arraignment date of February 23,
19 2006 at 9:30 a.m. before the Honorable Maria-Elena James.

20 IT IS SO STIPULATED.

21 DATED: _____

22 _____ /s/
23 TRACIE L. BROWN
24 Assistant United States Attorney

25 DATED: _____

26 _____ /s/
27 STEVEN KALAR
28 Attorney for GONZALO MAYORGA

29 IT IS SO ORDERED.

30 DATED: February 2, 2006

31 
32 THE HON. JOSEPH C. SPERO
33 United States Magistrate Judge